



This Recommended Order and Decision became the Order and Decision of the
Illinois Human Rights Commission on 9/20/02.

**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

| | | |
|------------------------------|---|------------------------|
| IN THE MATTER OF: |) | |
| |) | |
| JAMES STEWART, |) | |
| |) | |
| Complainant, |) | |
| |) | Charge No.: 1998CF3123 |
| and |) | EEOC No.: 21B982651 |
| |) | ALS No.: 11712 |
| PARAGON DIE CASTING COMPANY, |) | |
| |) | |
| |) | |
| Respondent. |) | |

RECOMMENDED ORDER AND DECISION

On February 6, 2002, the Illinois Department of Human Rights filed a complaint on behalf of Complainant, James Stewart. That complaint alleged that Respondent, Paragon Die Casting Company, discriminated against Complainant on the basis of his race when it discharged him.

This matter now comes on to be heard on Respondent's Second Motion to Dismiss for Want of Prosecution. Although Complainant was served with the motion, he neither filed a written response to the motion nor appeared at the scheduled hearing on the motion. The time for filing any response has passed. The matter is ready for decision.

FINDINGS OF FACT

The following facts are based upon the record file in this matter.

1. Complainant did not appear on April 2, 2002 for the

initial status hearing on this matter. Respondent was given leave to file a motion to dismiss.

2. Complainant appeared in person on May 7, 2002 at the scheduled hearing on Respondent's first motion to dismiss. Complainant was given time to find an attorney to represent him, and a new status hearing was scheduled for June 20, 2002.

3. Complainant failed to appear at the status hearing on June 20, 2002. Respondent was given leave to file a second motion to dismiss.

4. Respondent set its second motion to dismiss for July 2, 2002. Complainant was served with notice of that motion.

5. On July 2, 2002, Respondent's second motion to dismiss was entered and continued to August 6, 2002.

6. Complainant did not appear on August 6, 2002.

7. Complainant has not filed any written response to Respondent's second motion to dismiss.

CONCLUSIONS OF LAW

1. Complainant's failure to prosecute this matter has unreasonably delayed these proceedings.

2. This matter should be dismissed with prejudice because of Complainant's inaction.

DISCUSSION

This matter has been pending for six months. In that time, Complainant has done virtually nothing to prosecute his claim.

Complainant failed to appear for the first status hearing.

He did not appear until Respondent filed its first motion to dismiss. At that time, he asked for time to find an attorney. He has not been heard from since that time.

Even after Respondent filed a second motion to dismiss and served that motion upon him, Complainant has failed to appear to pursue his claim. He has offered no explanation for that failure.

Under section 8A-102(I)(6) of the Human Rights Act, 775 ILCS 5/1-101 *et seq.*, an administrative law judge may recommend dismissal of a case if a complainant fails to prosecute his case or appear at a status hearing. Complainant's behavior meets that standard. His continued inaction, even in the face of a motion to dismiss, strongly suggests that he has abandoned his claim. As a result, it is appropriate to dismiss his claim with prejudice. See **Leonard and Solid Matter, Inc.**, ___ Ill. HRC Rep. ___, (1989CN3091, August 25, 1992).

RECOMMENDATION

Based upon the foregoing, it appears that Complainant has abandoned his claim. Accordingly, it is recommended that the complaint in this matter be dismissed with prejudice.

HUMAN RIGHTS COMMISSION

BY: _____
MICHAEL J. EVANS
ADMINISTRATIVE LAW JUDGE
ADMINISTRATIVE LAW SECTION

ENTERED: August 9, 2002